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An employee is liable for the cost of shipping household effects in excess of the maximum weight allowance even though the excess costs arise from his reliance on an erroneous estimate of weight made by this Agency's prime contractor for shipment and storage of household effects.

1. In a memorandum dated 11 July 1955, the Director of Communications states that M.W., an Office of Communications employee, is being assessed \$336.50 for the shipment of household effects in excess of an authorized 3,000 pound limitation. The Director of Communications recommends that W. be relieved of this assessment on the grounds that payment will represent a real and undeserved financial hardship for him.

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3. The facts of this case indicate that W. is indeed the victim of unfortunate circumstances and holds a strong equitable position for relief from this assessment. However, it is also true that the Agency was not in any way responsible for the mistake. Since the crating and shipping of W.'s effects was not within the control of the Agency, there is no legal ground for transferring to the Government the excess costs. Hardship alone offers no legal basis for relieving W. of the assessment. The cost to W. in this case does not result from activities peculiar to the mission of the Agency but could have been incurred by him had he been employed in any other Government agency. Because of this fact the case is not one in which the Director's broad authority to expend funds under Section 10(b) of the CIA Act of 1949 offers legal grounds for relief. We recognize the hardship imposed here and sympathize with W.'s position, but under the circumstances of this case we can find no ground in law affording relief.

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CONFIDENTIAL

1
ICE NO. _____ BOX NO. _____ TIP NO. _____ DOC NO. 4 NO CHANGE
IN CLASS/ DOWNS/ CLAS CHANGED TO: IR CONF. JUST 2
NEXT REV DATE 3/10/79 REV DATE _____
NO. PGS 2 CREATION DATE _____ ON COMP 38 OF 5 ORG CLAS
REV CLASS 6 REV COORD. _____ AUTH: HH 703

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4. Although it offers no relief in this case, it should be noted that a new contract with [] the prime contractor, will provide for the weighing of all shipments both prior to and after crating. The Agency will be informed of these weights in order that it may inform the employee and modify the shipment if he wishes to avoid excess shipping charges.

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LAWRENCE R. HOUSTON
General Counsel

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